

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

Entered July 28, 1989

ORDER NO. 89-29

MANAGEMENT PLAN

FOR

COURT REPORTING SERVICES

ORIGINALLY APPROVED SEPTEMBER 14, 1981

APPROVED AS REVISED:

_____\s\
James DeAnda
Chief Judge

Date: 6/8/89

_____\s\
Jesse E. Clark
District Clerk

Date: 6/8/89

Honorable

APPROVED by the Judicial Council of the Fifth Circuit.

Date: July 24, 1989

_____\s\
Lydia G. Comberrel
Secretary to the Council

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MANAGEMENT PLAN
COURT REPORTING SERVICES

SOUTHERN DISTRICT OF TEXAS

On September 2, 1981, the Court of the Southern District of Texas met in Houston, Texas, and adopted a program of court reporter management. The Court hereby amends its original plan to meet the changing needs of the Court and Judicial Conference requirements.

The management plan embodies the following points with regard to the official court reporters of this district:

- (1) That the supervision of the official court reporters be delegated to the Clerk of Court;
- (2) That all official court reporters serve the District Court en banc;
- (3) That a panel of three United States District Judges be appointed by the chief judge to act on behalf of the Court in matters of hiring, discipline and enforcement of general policy matters set forth in the Court Reporters' Manual, Guide to Judiciary Policies and Procedures, and local procedures established by the Clerk. (Attachment 1, Liaison Panel);
- (4) That supervisory responsibility of the Clerk lies primarily in the area of random pooling, fee and format compliance, compliance with Judicial Conference policies, and efficient service to the entire Court; and,
- (5) That official court reporters of this district will fulfill their statutory duties as prescribed in 28 U.S.C. Section 753 and adhere to the Judicial Conference requirements and the requirements of this Court.

The chief judge will continue to serve as a direct liaison between the Clerk and Court in general policy matters pertaining to management and supervision of official court reporters.

Specific Terms of Court Reporter Employment Shall Be:

All reporters appointed to serve this Court must meet the Judicial Conference qualifications set out in the Court Reporters' Manual, Guide to Judiciary Policies and Procedures, and will serve a probationary period of ninety days. Reporters not performing in a satisfactory manner will be dismissed.

SPECIFIC PLAN OF MANAGEMENT OF COURT REPORTERS

I. POOLING OF REPORTERS

Reporters are employees of the Court en banc, and shall retain their employment at the pleasure of the Court en banc, regardless of death, resignation or retirement of a judge. In order to ensure even distribution of case work and coverage of the needs for court reporting services, a genuine random pooling of reporters has been implemented by the Court for the Southern District of Texas. In the divisions where only one district judge presides, pooling is not applicable except when relief is needed and assistance is available. Reporters in the divisional offices will be called upon to substitute when possible and feasible.

A. Hours

To allow emergency scheduling during the course of a given day, regular office hours must be maintained by court reporters. office hours of 8:30 a.m. to 5 p.m. have been established in the Houston Division and specific office hours as determined to meet the needs of each divisional judge have been established in all divisional offices where reporters are covered by the provisions of the Leave Act. Emergencies will be readily accommodated as each reporter shall report absences from the building other than lunch breaks to the Manager, Court Reporting Services, or deputies-in-charge in the divisions.

B. Requests for Court Reporter Service

In the Houston Division, case managers for the district judges and magistrates' clerical assistants will provide the Manager of Court Reporting Services with a written request for a court reporter. The request should be made with as much advance notice as possible. The Manager of Court Reporting Services will make the reporter assignments on the Daily Court Schedule. Magistrates' clerical assistants will also use the request forms to notify the Manager of Court Reporting Services of tape-recorded proceedings which should be included on the Daily Court Schedule.

C. Daily Assignment of Reporters

1. The reporter assignment system incorporates a monitoring

procedure wherein all official court reporters in the Houston Division are assigned to the specific needs of the Court by evaluation of (a) in-court reporting hours (including waiting time in court or chambers at the direction of a judge or magistrate), (b) transcript page production pending, and © completed transcript page production.

In-court assignments will be made to equalize the reporting hours with consideration being given to transcript work pending on an as-needed basis whenever in-court time and page production are reasonably equalized with other reporters. This method of assignment will reduce the need for outside reporters and promote faster transcript production.

2. Reporters will be assigned on a daily basis, taking into consideration the continuation of a previously assigned proceeding. A practical approach will be taken by allowing a reporter to remain with an assignment until its conclusion or upon completion by the court reporter of an Assignment Relief Request, XS-2, for emergencies.
3. The Manager of Court Reporting Services will maintain sufficient records to provide monthly tabulation of hours in court, transcript pages pending, and transcript pages produced for each pooled reporter.

C. Other Assignments:

Definite guidelines regarding the use of court reporters by magistrates have been developed. While magistrates have legitimate statutory reasons for the utilization of official court reporters, there is provision for the alternative use of electronic recording equipment. This Court has directed such use by magistrates in this district. It is also incumbent upon the court reporters to report official activities in appointments involving special masters and/or land commissioners as directed.

II. TRANSCRIPT ORDERS

A. Format Compliance

All official court reporters will be furnished Judicial Conference transcript format requirements (See Court Reporters' Manual, Guide to Judiciary Policies and Procedures). The Clerk of Court will monitor transcripts to ensure compliance with these requirements.

B. Fee Compliance

Absolute and unyielding adherence to the prescribed rates of the Judicial Conference will be practiced. Monitoring by the Clerk has been established in the following areas:

1. Written Requests for Transcripts: Written requests for transcripts are made through the Clerk of Court. Order forms will be available from the Clerk. All transcripts for appeals will be ordered on the appropriate form designated by the Court of Appeals for the Fifth Circuit.

Transcripts purchased by Criminal Justice Act funds will be ordered on the appropriate CJA form. (Non-appeal transcripts purchased by private funds may be ordered by letter **or** form.) Transcript orders will include the case number, case name, date of proceedings to be transcribed, any additional pertinent information required to identify the material to be transcribed, and the name of the court reporter whenever possible.

2. Estimate of Cost: Upon receipt of a transcript order, the court reporter will furnish the ordering party an estimate of charges, which will serve as a deposit against the final cost. On privately paid transcript orders, unless deposit has been specifically waived by the court reporter, transcript preparation will not commence until financial arrangements have been made and the necessary deposit is received by the Clerk. Deposit checks should be made payable to the individual court reporter preparing the transcript.
3. Transcript Order Cancellations: No fee may be charged by official court reporters on transcript orders if pages have not been produced at the time the reporter learns that the transcript order is canceled. The ordering party is expected to pay for all transcript pages which have been produced at the time the order is canceled. The reporter will stop production immediately upon notification of cancellation and title the transcript, "Excerpt of Proceedings."
4. Daily Copy Requests: A court reporter receiving a request for daily copy shall immediately notify the Manager of Court Reporting Services. Daily or hourly copy falls within the definition of entrepreneurial activities, and no additional official court reporter will be assigned to the task. The court

reporter accepting the order for daily copy will be responsible for employing the necessary assistance.

5. Routine Apportionment of CJA Costs: In compliance with Judicial Conference policy, routine apportionment among the parties of accelerated transcript costs in Criminal Justice Act cases is prohibited.
6. Timely Transcript Delivery: Reporters of this district are charged with the responsibility of preparing all transcripts in a prompt and timely manner, particularly ensuring that appeals delivery deadlines are met. Otherwise, appropriate monetary sanctions of the Circuit will ensue except in those rare instances when a waiver of discount is granted by the Circuit Clerk upon specific request of the court reporter and for good cause shown. The timely delivery of transcripts will be monitored by the Clerk with audit of charges to ensure compliance with Judicial Conference fee schedules and Court of Appeals' discounts. (The method of transcript delivery shall be at the discretion of the Clerk, whether by the court reporters themselves or by central delivery from the Clerk's office.)
7. Invoicing: A final invoice, AO Form 44, or CJA Form 24 reflecting exact charges and any adjustments by either refund or additional billings will be prepared for all transcript deliveries. Fee adjustments will be made at the time of transcript delivery. All invoices for transcripts, whether originals or copies, will be sequentially numbered. In the event of central delivery by the Clerk's office, all copies of the transcript and the invoice will be given to the Clerk immediately when ready for delivery. In the event of delivery by the

court reporter, a copy of the invoice will be given to the Clerk following delivery of a copy transcript. When original transcript has been produced, the court copy of the transcript to be filed will be given to the Clerk when the transcript is completed for delivery. A copy invoice, a CJA 24 form or an original invoice billed to the Clerk for civil in forma pauperis appeals will accompany the transcript as appropriate. The transcript will be filed when the:

- a. Court reporter notifies the Clerk that final payment has been made or waived at the time of delivery to the ordering party on privately paid orders,
- b. When received by the Clerk if payment is to be made from federal or state government funds, or if prepayment of the final invoice is waived by the reporter under unusual circumstances.

Any invoice evidencing overcharging, either intentional or in error, will be returned to the court reporter for correction and adjustment; and, if appropriate, a report made to the Court Reporter Liaison Panel.

III. LEAVE ACT COVERAGE FOR OFFICIAL COURT REPORTERS

Reporters in the Houston Division will be placed under the provisions of the Leave Act. Divisional reporters in locations of less than three judges may choose Leave Act coverage with the approval of the judge to whom the reporter is assigned.

Reporters covered under the provisions of the Leave Act will not engage in deposition or grand jury reporting during normal duty hours. Any outside reporting must be performed during periods of authorized leave and with the prior approval of the Court.

IV. TRAVEL FOR OFFICIAL REPORTING DUTIES

Travel for official court reporting duties will be coordinated by the Manager, Court Reporting Services, with advance approval of the travel by the Clerk. Travel by official court reporters and contract/per diem reporters will be minimized except in those instances where such travel is cost and record advantageous to the Court.

V. REPORTS TO BE FILED WITH THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Every official court reporter in this district is required to timely file the reports and keep the records required by the Administrative Office of the United States Courts as set out in the Guide to Judiciary Policies and Procedures, Court Reporters, Manual, Vol. VI, section XXII, Records and Reports. These reports and records will be provided to the Clerk for review as set Out in the Court Reporters' Manual.

VI. DIVISIONAL REPORTERS

Deputies-in-charge of divisional offices are charged with the responsibility of monitoring official court reporter time, scheduling and coordinating leave, checking transcript format, and monitoring fees charged. Deputies-in-charge will secure contract/per diem reporters when needed after coordination with the Manager, Court Reporting Services, except in extreme emergency situations which require immediate action. In these instances, the manager will be notified of action taken as soon as possible thereafter.

Although the court reporters in divisional offices are not in the same pooling position as the Houston Division reporters, a Daily Court Attendance Worksheet, TXS-3, will be completed by divisional reporters. These hours worked (including waiting time in court and in chambers at the

direction of the judge) will be incorporated into an end-of-month report for each reporter, and mailed monthly to the Manager, Court Reporting Services, by the deputy-in-charge.

Fee and format compliance with Judicial Conference requirements and District Court orders apply to all official court reporters within the Southern District of Texas. Audit procedures implemented by the Clerk apply throughout the district and will be executed by the deputy-in-charge of divisions. Divisional court reporter management concerns will be referred to the Manager, Court Reporting Services.

VII. HIRING OF CONTRACT OR PER DIEM COURT REPORTERS

The use of contract or per them court reporters will be minimized by the use of official court reporters whenever possible and whenever cost effective. Requirements for non-official court reporters will be coordinated by the Manager of Court Reporting Services.

VIII. FILING OF COURT REPORTER NOTES AND CRIMINAL BACKUP TAPES OF
ARRAIGNMENTS, PLEAS AND SENTENCINGS

All court reporters, official and non-official, will file their original notes and electronic sound recordings of criminal arraignments, pleas and Sentencings or transcripts of these criminal proceedings as set out in 28 U.S.C. Section 753(b) with the Clerk within ninety days after the conclusion of the proceeding. Official court reporter offices provided by the Clerk have been designated as an adjunct of the Clerk's office for purposes of interim storage beyond the 90-day period.

IX. OFFICIAL RECORD IN BANKRUPTCY COURT

The official record of Bankruptcy Court in this district shall be taken by electronic sound recording, and the tape recordings shall be the official record of the Court.

X. TAPE RECORDED PROCEEDINGS

All records of proceedings taken by electronic sound recording equipment shall be stored in the office of the Clerk in a standardized manner to ensure easy location and retrieval. These records will be retained in accordance with the requirements of the records disposition schedule set forth in the Guide to Judiciary Policies and Procedures. Transcript orders from tape recorded proceedings will be ordered and delivered through the office of the Clerk. Transcript quality and timeliness will be ensured through records kept by the Clerk and by spot check, proofreading of transcripts with the original court tapes. Transcript fees and format of transcribing services preparing transcripts from tape recorded proceedings will be monitored by the Clerk.

XI. COURT REPORTING SERVICES - STAFFING REQUIREMENTS

The staffing requirements of this district are as follows: Official Court Reporters: One official court reporter for each active district judge. one swing court reporter position to serve senior judges and special reporting needs of the magistrates. Electronic Recording Operators - Magistrates' Court: Two ERO positions to serve recording needs of the magistrate, land commissioners, and special masters, and special recording needs of the District Court throughout the district.

Electronic Recording Operators - Bankruptcy Court:. One ERO position for each active bankruptcy judge. One additional temporary ERO position to allow for a work leader who will also perform recording duties for visiting judges and provide courtroom relief as required for leave and emergency situations.

COURT REPORTER LIAISON PANEL
SOUTHERN DISTRICT OF TEXAS

The Court Reporter Liaison Panel will be composed of three district judges appointed by the chief judge, with one judge serving as the panel chairman. This panel will work as a liaison for the Court with the Clerk of Court in all matters concerning employment and discipline of official court reporters.

The Clerk of Court will advertise all vacant official court reporter positions and screen applicants for the Court. The Clerk will select and recommend to the panel the applicant best suited and qualified for employment, ensuring that such applicant meets the minimum employment qualifications established by the Judicial Conference for official court reporters. The panel with the consent of the chief judge will hire approved applicants.

The Clerk of Court will report all instances of apparent noncompliance with the principles, standards and rates set forth in the manual for court reporting as adopted by the Court for the Southern District of Texas. The panel will review and act upon recommendations by the Clerk for appropriate solutions for the reported violations.

While supervision of official court reporters lies with the Clerk, any individual court reporter may petition the panel for audience. This may be done in writing to the Clerk who will present the matter to the panel for consideration. Such written petition should state the nature of business or complaint. The granting of such hearing is solely within the discretion of the panel. All matters relating to the development of program or supervision policy will be presented by the Clerk to the chief judge for court consideration.

ATTACHMENTS

Attachment “1” - Court Reporter Liaison Panel

Local Forms Will Be Developed As Needed Per This Plan